

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

---

ROBERT KIRBY

Plaintiff,

v.

CASE NO: 12-CV-12039-DT

WAYNE COUNTY SHERIFF,  
BENNY NAPOLEON, ET AL.,

Defendants

---

**ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

This matter was referred to United States Magistrate Judge Charles E. Binder pursuant to 28 U.S.C. §636(b)(1)(B) and Local Rule 72.1. In his October 15, 2013 report, the magistrate judge recommends that this court dismiss with prejudice the three remaining John Doe Defendants, (identified as Defendants #6, #7 and #8 in Plaintiff's Amended Complaint). Plaintiff has failed to identify and serve these defendants pursuant to Rule 4(m) and the statute of limitations expired on Plaintiff's claims against these defendants.

No objections have been filed pursuant to 28 U.S.C. § 636(b)(1)(C), thus further appeal rights are waived.<sup>1</sup> Having reviewed the file and the Report, the court concludes

---

<sup>1</sup> The failure to object to the magistrate judge's report releases the court from its duty to independently review the motion. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Any objection was due with the ten days of service, Fed.R.Civ.P.6(e). No objection has been filed as of the date of this order.

that the findings and conclusions of the Magistrate Judge are correct and ADOPTS the same for purposes of this Order.

**ORDER**

IT IS ORDERED that, for the reasons set forth in the Magistrate Judge's Report and Recommendation, the three remaining John Doe defendants are DISMISSED WITH PREJUDICE and the case will proceed to discovery solely against Defendant Peoples.

IT IS FURTHER ORDERED that the Order of Reference to Magistrate Judge Charles Binder for All Pretrial Proceedings is continued.

S/Robert H. Cleland  
ROBERT H. CLELAND  
UNITED STATES DISTRICT JUDGE

Dated: November 5, 2013

I hereby certify that a copy of the foregoing document was mailed to counsel of record and/or pro se parties on this date, November 5, 2013, by electronic and/or ordinary mail.

S/Lisa Wagner  
Case Manager and Deputy Clerk  
(313) 234-5522